

AMENDED IN SENATE FEBRUARY 22, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1598

**Introduced by Committee on Agriculture (Matthews (Chair),
Maze (Vice Chair), ~~Berg, Canciamilla~~, Cogdill, Parra, Salinas,
and Vargas)**

February 22, 2005

An act to amend ~~Section 14992~~ *Sections 24012, 52254, 52260, 52351, 52354, 52361, 52391, 52451, 52453, 52455, 52481, 52482, 52483, 52484, 52487, 52511, 56382.8, 78623, 78640, and 78700* of the Food and Agricultural Code, relating to agriculture omnibus, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1598, as amended, Committee on Agriculture. Agriculture omnibus changes.

Existing law provides that in order to provide for the enforcement of provisions relating to the drugging of horses, the event manager of every event shall charge and collect a fee of not more than \$3 for each horse entered or exhibited in the event, as determined by the Secretary of Food and Agriculture to be necessary to carry out those provisions. Existing law provides that under certain circumstances the secretary may set the fee at a rate in excess of \$3 per horse, but no greater than \$5 per horse.

This bill would instead provide that the event manager shall charge and collect a fee that the secretary determines to be necessary to carry out the provisions relating to the drugging of horses, as specified.

This bill would increase the fees that may be charged and collected for the purposes of enforcing the provisions relating to the drugging of horses. These fees would be deposited into the Department of Food and Agriculture Fund, and would be continuously appropriated to the department for the purposes for which they are collected. Therefore, this bill would make an appropriation by increasing the money in a continuously appropriated fund.

Existing law, the California Seed Law, generally regulates seed sold in California to ensure that seed purchased by the consumer-buyer is properly identified and of the quality represented on the tag or label. Existing law defines agricultural seed as not including any variety that is generally known and sold as vegetable seed, for these purposes. Existing law provides that vegetable seed sold in a container one-half pound or less that is for sowing purposes shall bear upon it the year in which it is intended for planting.

This bill would remove these provisions and would instead provide that any vegetable seed sold in a container one-half pound or less bear upon it at the time of retail sale for nonfarm use the viability assurance statement “Packed for the (year) season.” This bill would make numerous other nonsubstantive, conforming changes.

Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

Pursuant to provisions relating to the licensure and regulation of produce dealers a procedure is provided whereby an aggrieved grower or licensee may file a complaint with the Department of Food and Agriculture subject to expedited review and settlement. If the dispute is not resolved through informal consultation, the complainant may pursue arbitration by following specified procedures including that he or she pay a fee for the arbitration to the department. Existing law also requires the respondent to pay a fee for any counterclaim that is filed.

This bill would provide that the fee paid by the respondent shall be made payable to the arbitrator, arbitration service, or payee designated by the department.

Existing law establishes the California Tomato Commission in state government with a prescribed membership comprised of producers and handlers representing 8 districts, and it specifies the powers, duties, and responsibilities of the commission.

This bill would reduce the number of districts to 7 by eliminating the district consisting of Baja California (Mexico) and would also reduce

the number of members of the commission by eliminating the member representing California tomato handlers who exclusively handle tomatoes produced in Baja California (Mexico).

Existing law provides that the commission shall establish an assessment against tomato handlers, as specified.

This bill would remove provisions relating to the assessment of handlers who receive tomatoes produced outside the state.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires that every lot, parcel, or package of commercial feed distributed within this state have affixed to it, or be accompanied by, a label that contains certain specified information, including the net weight of the contents of the lot or parcel, as specified.~~

~~This bill would provide that a lot, parcel, or package of commercial feed may have affixed to it, or be accompanied by a label that includes the net weight or volume of its contents.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 24012 of the Food and Agricultural
2 Code is amended to read:
3 24012. (a) To provide funds for enforcement of this chapter,
4 the event manager of every event shall charge and collect a fee of
5 ~~not more than three dollars (\$3)~~ *the applicable fee* for each horse
6 entered or exhibited in the event, and each horse consigned for
7 public sale, ~~as determined by the secretary to be necessary to~~
8 ~~carry out this chapter.~~ *Based upon, and in accordance with, the*
9 *recommendation of the advisory committee appointed pursuant*
10 *to Section 24013.5, the secretary may, by regulation, set the*
11 *applicable fee at an amount necessary to carry out this chapter.*
12 Event managers shall be notified of the applicable fee at the time
13 of registration of an event. The event manager of the registered
14 event shall remit the fee established pursuant to this section, in

1 addition to the completed assessment summary, as prescribed by
2 the secretary, to the department within 15 days after completion
3 of the event.

4 ~~Based on the recommendation of the advisory committee~~
5 ~~appointed under Section 24013.5, the secretary may set the fee at~~
6 ~~a rate in excess of three dollars (\$3) per horse that may not~~
7 ~~exceed five dollars (\$5) per horse.~~

8 (b) Any event manager who does not pay to the department
9 the full amount that is due pursuant to this section shall pay a
10 civil penalty of 10 percent of the amount due plus interest at the
11 rate of 1½ percent per month of the unpaid balance computed
12 from the date of the event. The event manager is personally liable
13 for fees and penalties owed the department pursuant to this
14 section.

15 (c) Fees and penalties collected pursuant to this section shall
16 be deposited in the Department of Food and Agriculture Fund.
17 All funds received by the department from fees and penalties
18 pursuant to this section shall be used exclusively to carry out the
19 intent and purpose of this chapter, including, but not limited to,
20 pharmacological studies, drug testing, and drug research,
21 inspection for drugs, prosecution of alleged offenders,
22 administrative costs, attorneys and expert witness fees, and any
23 other costs necessary to carry out this chapter.

24 *SEC. 2. Section 52254 of the Food and Agricultural Code is*
25 *amended to read:*

26 52254. “Agricultural seed” means the seed of any
27 domesticated grass or cereal, and of any legume or other plant
28 ~~which that~~ is grown as turf, cover crop, forage crop, fiber crop,
29 or field crop, and mixtures of such seeds. It does not, however,
30 include any variety ~~which that~~ is generally known and sold as
31 flower seed or vegetable seed.

32 *SEC. 3. Section 52260 of the Food and Agricultural Code is*
33 *amended to read:*

34 52260. “Weed seed” means any noxious weed seed, and any
35 seed ~~which that~~ is not included in the definitions of agricultural
36 ~~or vegetable seeds seed~~, if it occurs incidentally in agricultural ~~or~~
37 ~~vegetable seed~~.

38 *SEC. 4. Section 52351 of the Food and Agricultural Code is*
39 *amended to read:*

1 52351. Every labeler of agricultural or vegetable seed offered
2 for sale or sold in this state, or any person who receives or
3 possesses for sale or sells in this state any such seed which is not
4 grown in this state, shall annually register with the ~~director~~
5 *secretary* to obtain authorization to sell agricultural or vegetable
6 seed before he engages in ~~such~~ *this* activity, except any of the
7 following:

8 (a) An individual grower that conditions such seed exclusively
9 for his own planting use.

10 (b) A person using agricultural or vegetable seed, or both
11 agricultural and vegetable seed, only for purposes of planting
12 seed increase.

13 (c) Any person licensed to sell nursery stock pursuant to
14 Chapter 1 (commencing with Section 6701) of Part 3 of Division
15 4, except when he also engages in activities as defined under
16 Section 52257.5.

17 *SEC. 5. Section 52354 of the Food and Agricultural Code is*
18 *amended to read:*

19 52354. Each person *who is* required to be registered pursuant
20 to Section 52351 shall pay an assessment annually to the ~~director~~
21 *secretary* in an amount not to exceed forty cents (\$0.40) per one
22 hundred dollars (\$100) gross annual dollar volume sales of
23 agricultural or vegetable seed, or both, in this state for the
24 preceding fiscal year defined in Section 52352, except in the
25 following cases:

26 (a) No assessment shall be paid by any labeler or any other
27 person for any agricultural or vegetable seed for which the
28 assessment has been previously paid by another labeler or
29 person, ~~except when~~ *unless* the identity of the lot has been
30 changed.

31 (b) No assessment shall be paid on that portion of a person's
32 sales of agricultural or vegetable seed, or both, that is sold in
33 containers of four ounces or less net weight of seed.

34 (c) No assessment shall be paid on agricultural or vegetable
35 seed, or both, sold and shipped out of this state.

36 *SEC. 6. Section 52361 of the Food and Agricultural Code is*
37 *amended to read:*

38 52361. The ~~director~~ *secretary*, each commissioner, and any
39 qualified representative of the commissioner, shall sample and
40 inspect any agricultural or vegetable seed ~~which~~ *that* is subject to

1 this chapter at ~~such~~ *the* time and place and to ~~such~~ *the* extent as
2 he *or she* may deem necessary to determine whether ~~such~~ *the*
3 agricultural or vegetable seed is in compliance with the
4 provisions of this chapter, and notify promptly the person ~~that~~
5 *who* is in possession or control of the seed of any violation.

6 *SEC. 7. Section 52391 of the Food and Agricultural Code is*
7 *amended to read:*

8 52391. The ~~director~~ *secretary* or the commissioner and any
9 qualified representative of the commissioner may issue and
10 enforce a written or printed “stop-sale” order to the owner or
11 custodian of any lot of agricultural or vegetable seed ~~which that~~
12 he *or she* finds is in violation of any provision of this chapter,
13 ~~which that~~ shall prohibit further sale of ~~such~~ *the* seed until the
14 officer has evidence that the law has been complied with. Upon
15 compliance, ~~such~~ *the* order shall be removed.

16 *SEC. 8. Section 52451 of the Food and Agricultural Code is*
17 *amended to read:*

18 52451. This article does not apply to any of the following:

19 (a) Seed or grain ~~which that~~ is not intended for sowing
20 purposes.

21 (b) Seed ~~which that~~ is in storage in, or consigned to, a seed
22 cleaning or conditioning establishment for cleaning or
23 conditioning.

24 (c) Seed or grain ~~which that~~ is transported without transfer of
25 title for sowing on land ~~which that~~ is owned by the person by
26 whom the seed or grain was produced.

27 (d) Seed ~~which that~~ is weighed and packaged in the presence
28 of the purchaser from a bulk container, if ~~such~~ *the* container is
29 properly and conspicuously labeled as provided by this chapter.

30 (e) Seed or grain ~~which that~~ is transported from one
31 warehouse to another without transfer of title or in storage in a
32 warehouse, if each container is plainly marked or identified with
33 a lot number or other lot identification and the label information
34 ~~which that~~ is required by this article is available at the request of
35 an enforcing officer.

36 *SEC. 9. Section 52453 of the Food and Agricultural Code is*
37 *amended to read:*

38 52453. Except as otherwise provided in Section 52454, each
39 container of vegetable seed that is for sale or sold within this
40 state for sowing purposes shall bear upon it, or have attached to

1 it, in a conspicuous place, a plainly written or printed label or tag
2 in the English language, ~~which~~ *that* gives all of the following
3 information:

4 (a) Name of kind and variety of seed.

5 (b) For any seed that germinates less than the standard last
6 established by the director under this chapter, the percentage of
7 germination, exclusive of hard seed; the percentage of hard seed,
8 if present; the calendar month and year the test was completed to
9 determine those percentages; and the words “Below Standard” in
10 not less than eight-point type.

11 (c) Name and address of the person that labeled the seed, or of
12 the person that sells the seed within this state.

13 (d) In addition to the information required in subdivisions (a),
14 (b), and (c), on each container of more than one-half pound (227
15 grams), the label shall include both the lot number or other lot
16 identification and the calendar month and year the germination
17 test was completed.

18 ~~(e) In addition to the information required in subdivisions (a),~~
19 ~~(b), and (c), on each container of one-half pound (227 grams) or~~
20 ~~less, the labeling shall include the statement “Packed for the~~
21 ~~(number of the year) season.” The year shall be the year intended~~
22 ~~for planting.~~

23 *SEC. 10. Section 52455 of the Food and Agricultural Code is*
24 *amended to read:*

25 52455. In addition to the labeling requirements of this article,
26 all seed at the time of sale by a retail merchant for nonfarm
27 usage, shall conspicuously bear upon the labeling of the seed a
28 viability assurance statement.

29 (a) The statement shall be “SELL BY (month) (year)”, or
30 “USE BEFORE (month) (year)”. The month and year in the
31 statement shall not exceed the 15-month retail time period
32 allowed by subdivision (b) of Section 52481.

33 (b) The statement shall be conspicuous and in capital letters of
34 the same size of type as other printed material on the labeling and
35 contiguous to the germination date.

36 (c) The statement shall be affixed at the time of labeling for
37 those containers destined for retail sales.

38 *(d) For vegetable seed sold in containers of one-half pound*
39 *(227 grams) or less, the viability assurance statement may read*

1 “Packed for (year) season” as an alternative to the “SELL BY
2 (month) (year)” statements referenced in subdivision (a).

3 SEC. 11. Section 52481 of the Food and Agricultural Code is
4 amended to read:

5 52481. Except as otherwise provided in this section or in
6 Section 52486, it is unlawful for any person to ship, deliver,
7 transport, or sell any agricultural or vegetable seed within this
8 state, other than the seed ~~which~~ that is described in Section
9 52451, unless the test to determine the percentage of germination
10 ~~which~~ that is required by Article 8 (commencing with Section
11 52451) has been completed within the following period,
12 exclusive of the calendar month in which the test is completed,
13 immediately prior to shipment, delivery, ~~transportation~~
14 ~~transportation~~, or sale:

15 (a) In the case of any agricultural or vegetable seed ~~which~~ that
16 is shipped, delivered, transported, or sold to a dealer for resale,
17 eight months.

18 (b) In the case of any agricultural or vegetable seed ~~which~~ that
19 is sold at retail, 15 months.

20 (c) In the case of any agricultural or vegetable seed ~~which~~ that
21 is packaged under conditions ~~which~~ that the director finds and
22 determines will prolong the viability of the seed, the director may
23 designate, in regulations ~~which~~ that are adopted pursuant to this
24 chapter, a longer period than otherwise specified in this section,
25 and may require any additional labeling that may be necessary to
26 maintain identification of seed ~~which~~ that is packaged under
27 these conditions.

28 (d) Seed labeled under Section 52455 is not subject to
29 subdivision (b) upon expiration of the viability assurance
30 statement. This exemption does not limit the right of the
31 enforcing officer to enforce other applicable sections of this
32 chapter.

33 SEC. 12. Section 52482 of the Food and Agricultural Code is
34 amended to read:

35 52482. Except as otherwise provided in Section 52486, it is
36 unlawful for any person to ship, deliver, transport, or sell any
37 agricultural or vegetable seed within this state ~~which~~ that is
38 within any of the following classes:

1 (a) Is not labeled in accordance with the provisions of this
2 chapter. This subdivision does not, however, apply to any seed
3 ~~which that~~ is described in Section 52451.

4 (b) Contains prohibited noxious weed seed, subject to
5 tolerances and methods of determination prescribed in the
6 regulations~~which that~~ are adopted pursuant to this chapter. This
7 subdivision does not, however, apply to any of the seed~~which~~
8 ~~that~~ is described in subdivisions (a) or (b) of Section 52451.

9 (c) Has a false or misleading labeling, or pertaining to which
10 there has been a false or misleading advertisement.

11 (d) Is represented to be certified seed or registered seed, unless
12 it has been produced and labeled in accordance with the
13 procedures and in compliance with the rules and regulations of a
14 seed-certifying agency~~which that~~ is officially recognized under
15 the provisions of this chapter, if produced in this state, or under
16 the provisions of the Federal Seed Act (7 U.S.C., Sec. 1551, et
17 seq.), as enacted, and rules and regulations~~which that~~ are
18 adopted pursuant to that act, if produced outside of this state.

19 (e) Contains more than 1 ½ percent by weight of all weed
20 seeds. This subdivision does not, however, apply to any seed
21 ~~which that~~ is described in subdivision (a),(b), or (c) of Section
22 52451.

23 (f) To sell, by variety name, seed not certified by an official
24 seed certifying agency when it is a variety for which a certificate
25 of plant variety protection under the United States Plant Variety
26 Protection Act (84 Stats. 1542; 7 U.S.C. Sec. 2321, et seq.)
27 specifies sale only as a class of certified seed, except that seed
28 from a certified lot may be labeled as to variety name when used
29 in a mixture by, or with the written approval of the owner of the
30 variety.

31 *SEC. 13. Section 52483 of the Food and Agricultural Code is*
32 *amended to read:*

33 52483. It is unlawful for any person to do any of the
34 following:

35 (a) Detach, alter, deface, or destroy any label, warning tag, or
36 notice~~which that~~ is provided for in this chapter or in the
37 regulations~~which that~~ are adopted pursuant to it, or alter or
38 substitute seed, in a manner that may defeat the purposes of this
39 chapter.

1 (b) Disseminate any false or misleading advertisement
2 concerning agricultural or vegetable seed in any manner or by
3 any means.

4 (c) Hinder or obstruct in any way any authorized person in the
5 performance of his duties under this chapter.

6 (d) Fail to comply with a “stop-sale” order.

7 *SEC. 14. Section 52484 of the Food and Agricultural Code is*
8 *amended to read:*

9 52484. (a) Except as otherwise provided in Section 52486, it
10 is unlawful for any person to ship, deliver, transport, or sell
11 agricultural or vegetable seed ~~which~~ *that* is treated after harvest
12 with any substance that is likely to be poisonous or toxic to
13 human beings or animals unless there is conspicuously shown on
14 the analysis tag or label, on a separate tag or label attached to
15 each container, or upon each container all of the following
16 information:

17 (1) “TREATED SEED” and the signal word for the category
18 of treatment material all in capital letters.

19 (2) The chemical or generic name of the treatment material.

20 (3) An appropriately worded statement as to the hazards to
21 humans and animals.

22 (4) An appropriately worded statement of practical treatment,
23 if present.

24 (b) This information shall be derived from the technical
25 chemical label of the substance applied to the seed.

26 (c) When more than one substance is applied, each substance
27 shall be noted on the label, and the seed shall be labeled for the
28 substance with the higher level of toxicity.

29 *SEC. 15. Section 52487 of the Food and Agricultural Code is*
30 *amended to read:*

31 52487. A violation of this chapter for having shipped,
32 delivered, transported, or sold agricultural or vegetable seed
33 ~~which~~ *that* has a false or misleading labeling shall be construed
34 to have been committed at the time of discovery of ~~such~~ *the*
35 violation, and a complaint charging ~~such~~ *the* violation shall be
36 filed within one year from the time of ~~such~~ discovery. No
37 complaint ~~which~~ *that* charges such a violation shall, however, be
38 filed after two years from the date of sale.

39 *SEC. 16. Section 52511 of the Food and Agricultural Code is*
40 *amended to read:*

1 52511. Any lot of agricultural or vegetable seed ~~which~~ *that*
2 does not comply with this chapter is a public nuisance and is
3 subject to seizure on complaint of the director or the
4 commissioner or any enforcing officer of this chapter to a court
5 of competent jurisdiction in the area in which the seed is located.

6 *SEC. 17. Section 56382.8 of the Food and Agricultural Code*
7 *is amended to read:*

8 56382.8. (a) In addition to all other complaint procedures
9 provided for in this chapter, any aggrieved grower or licensee
10 with a complaint that is not subject to the federal Packers and
11 Stockyards Act, 1921 (7 U.S.C. Sec. 181, et seq.) or the federal
12 Perishable Agricultural Commodities Act, 1930 (7 U.S.C. Sec.
13 499a et seq.) and for which the claim for damages does not
14 exceed thirty thousand dollars (\$30,000), may file a verified
15 complaint with the department, subject to expedited review and
16 settlement. Informal complaints may be made for damages, but
17 not for disciplinary action, although the department may issue a
18 complaint pursuant to Section 56382 as the basis for disciplinary
19 action. Informal complaints must be received by the department
20 within nine months of when the claimant ought to have
21 reasonably known of its existence, as required under Section
22 56446.

23 (b) Complaints must be submitted to the department in writing
24 and verified, and may be transmitted via United States mail,
25 overnight delivery, or by facsimile transmission, setting forth the
26 essential details of the transactions complained of, including the
27 following:

28 (1) The name and address of each party to the dispute, of the
29 agent representing him or her in the transaction involved, if any,
30 as well as the party's counsel, if any.

31 (2) The quantity and quality or grade of each kind of produce
32 shipped if a grade or quality is the basis of payment.

33 (3) The date of shipment.

34 (4) The carrier identification if a carrier was used.

35 (5) The shipping and destination points.

36 (6) If a sale, the date, sale price, and amount actually received.

37 (7) If a consignment, the date, reported proceeds, gross, and
38 net.

39 (8) A precise estimate of the amount of damages claimed, if
40 known.

1 (9) A brief statement of material facts in dispute, including
2 terms of applicable contracts.

3 (10) The amount of damages being sought.

4 (c) The complaint shall also, so far as practicable, be
5 accompanied by true copies of all available papers relating to the
6 transaction complained about, including shipping documents,
7 letters, telegrams, invoices, manifests, inspection certificates,
8 accountings, accounts of sale, and any special contracts or
9 agreements.

10 (d) The informal complaint shall be accompanied by a
11 nonrefundable filing fee of sixty dollars (\$60) as required under
12 Section 56382.5.

13 (e) Upon confirmation that a complaint has been properly and
14 timely filed, including the securing of a denial letter from the
15 United States Department of Agriculture under the Federal
16 Packers and Stockyards Act, 1921, or the Federal Perishable
17 Agricultural Commodities Act, 1930, the department shall send a
18 copy of the complaint to the respondent by certified mail and
19 advise the respondent that it shall have 30 days from the
20 department's mailing of the complaint in which to answer the
21 complaint. The answer shall contain a brief response to the
22 complaint, including the respondent's position with respect to the
23 claimant's description of matters in dispute, the relevant facts,
24 and the remedy sought, together with a description of any claims
25 it may have against the complainant, in the same manner as
26 claims are to be set out in the complaint. The respondent shall
27 also include any pertinent documentation relevant to its defense
28 with its answer.

29 (f) After receipt of the answer from the respondent, the
30 department shall informally consult with the parties to clarify the
31 nature of the dispute and to facilitate the exchange of information
32 between the parties in order to assist the parties in reaching an
33 expedited informal resolution of the dispute. The informal
34 consultation process will last no longer than 60 days. The parties
35 shall cooperate fully with the department and shall participate in
36 the informal consultation process.

37 (g) If the informal consultation process provided for in this
38 section does not result in resolution of the dispute, the
39 complainant may then pursue arbitration against the licensee and
40 the complaint and any counterclaim will be fully and finally

1 adjudicated and resolved by a decision of an arbitrator under
2 expedited arbitration procedures as follows:

3 (1) The complainant shall ~~pay~~ *submit* a fee of six hundred
4 dollars (\$600) to the department for the arbitration and the
5 counterclaimant shall pay a fee of six hundred dollars (\$600) for
6 any counterclaim that is filed *made payable to the arbitrator,*
7 *arbitration service, or payee designated by the department.*

8 (2) An arbitrator from a panel of arbitrators registered with the
9 department shall be selected by the department and confirmed by
10 both the complainant and the respondent or counterclaimant after
11 the prospective arbitrator has certified that he or she has no
12 known conflict of interest in the dispute and after each party has
13 had an opportunity to lodge an objection for cause to the
14 appointment of the named arbitrator within five days of its
15 receipt of the notice of appointment of the arbitrator. The notice
16 of appointment shall be in writing and may be transmitted via
17 overnight delivery or by facsimile transmission.

18 (3) Upon confirmation of the appointment of the arbitrator the
19 department will transmit to the arbitrator the verified complaint,
20 the statement of defense, and the statement of counterclaim, if
21 one is filed.

22 (4) The complainant shall have 30 days after receipt of the
23 notice of appointment of the arbitrator to submit to the
24 department in writing sworn declarations by witnesses and any
25 other documentary evidence not previously submitted, as well as
26 legal authorities and arguments.

27 (5) Within five days of the department's receipt of the
28 complainant's written submission the department shall transmit a
29 copy of the complainant's written submission to the respondent.
30 The respondent shall have 30 days from the receipt of the
31 complainant's written submission to submit to the department in
32 writing responsive declarations by witnesses or other
33 documentary evidence not previously submitted, as well as any
34 legal authorities and arguments. The respondent's written
35 submission in support of its counterclaim, if any, must be sent to
36 the department at the same time as the responsive submission.

37 (6) If there is a counterclaim filed, within five days of the
38 department's receipt of the counterclaimant's written submission
39 the department shall transmit a copy of the counterclaimant's
40 written submission to the complainant. The complainant shall

1 have 10 days from the receipt of the counterclaimant's written
2 submission to submit any witness statements, evidence or legal
3 authorities and arguments in reply.

4 ~~(7) The arbitrator may, in the interest of justice, briefly extend~~
5 ~~the time periods for written submissions by either party.~~

6 ~~(8)~~

7 (7) Once all periods for submission of evidence and arguments
8 have expired and the department has transmitted all written
9 submissions to the arbitrator, the case and all evidence to be
10 considered by the arbitrator shall be deemed to be submitted.

11 ~~(8) The arbitrator may, in the interest of justice, briefly extend~~
12 ~~the time periods for written submissions by either party.~~

13 (9) The arbitrator shall issue his or her arbitration decision and
14 award in writing within 30 days after the case has been submitted
15 for a decision. This time period may be extended by the arbitrator
16 if, in his or her judgment, clarification of the evidence submitted
17 is required from either the complainant, the respondent or
18 counterclaimant, or both.

19 (10) No hearings or live testimony shall be conducted under
20 the expedited arbitration procedures.

21 (11) The arbitrator shall award interest at the legal rate to be
22 paid in addition to any damages that are awarded and the
23 arbitrator may award the recovery of costs to one party to the
24 arbitration or apportion costs between the parties as he or she
25 deems appropriate. Costs may include filing fees, mediation fees
26 and expenses, fees or expenses incurred by the department, fees
27 paid to expert witnesses, auditors or inspectors, but not attorneys'
28 fees, unless there has been an agreement by the parties that the
29 prevailing party in any dispute shall be entitled to recover
30 reasonable attorneys' fees as part of any award for damages, and
31 in that case, the arbitrator may award reasonable attorneys' fees
32 to the prevailing party.

33 (h) Either party to an expedited arbitration proceeding
34 conducted pursuant to this section may bring an action in any
35 California court of competent jurisdiction to enforce any awards
36 for damages made pursuant to this section. If an enforcement
37 action is necessary to secure payment of awards for damages, the
38 party initiating the enforcement proceeding shall be entitled to
39 recover all additional expenses, costs and attorneys' fees incurred
40 in connection with that proceeding.

(i) The department shall retain jurisdiction, as provided for under Section 56445, over any matter in which a licensee refuses to pay or otherwise comply with an arbitrator's decision conducted pursuant to the expedited arbitration procedures as set forth herein, and may immediately commence an action to revoke the license of the licensee.

(j) A complainant may enforce his or her rights through the verified complaint and expedited arbitration process as provided herein, or by a civil action brought in any court of competent jurisdiction. This section shall in no way abridge, preclude, or alter other remedies available to the parties now existing under common law or by statute, and the provisions set forth herein are in addition to those other remedies.

SEC. 18. Section 78623 of the Food and Agricultural Code is amended to read:

78623. "Districts" shall consist of the following:

(a) District 1 consists of Imperial and Riverside Counties.

(b) District 2 consists of Los Angeles, Orange, San Diego, San Luis Obispo, Santa Barbara, and Ventura Counties.

~~(c) District 3 consists of Baja California (Mexico).~~

~~(d)~~

~~(c)~~ District 3 consists of Fresno, Kern, Kings, and Tulare Counties.

~~(e)~~

~~(d)~~ District 4 consists of Monterey County.

~~(f)~~

~~(e)~~ District 5 consists of Madera, Merced, and Stanislaus Counties.

~~(g)~~

~~(f)~~ District 6 consists of San Joaquin County.

~~(h)~~

~~(g)~~ District 7 consists of all counties in the State of California.

The boundaries of any district may be changed by a two-thirds vote of the commission, which is concurred in by the secretary. These boundaries need not coincide with county lines.

SEC. 19. Section 78640 of the Food and Agricultural Code is amended to read:

78640. There is in the state government the California Tomato Commission. The commission shall be composed of 10

1 producers, ~~seven~~ six handlers, and may include one public
2 member, at the discretion of the commission.

3 (a) Producers within the respective districts shall elect one
4 producer from District 1, one producer from District 2, one
5 producer from District ~~4~~ 3, one producer from District ~~5~~ 4, one
6 producer from District ~~6~~ 5, one producer from District ~~7~~ 6, and
7 four at-large producers from District ~~8~~ 7.

8 (b) Handlers within Districts 1 ~~and 2, and Districts 4 to 7~~ to 6,
9 inclusive, shall elect one handler from each district. ~~Handlers in~~
10 ~~California who exclusively handle tomatoes produced in District~~
11 ~~3 shall elect one handler. An individual serving on the~~
12 ~~commission as a representative of District 3 shall be a United~~
13 ~~States citizen.~~

14 (c) The public member shall be appointed to the commission
15 by the secretary from nominees recommended by the
16 commission.

17 (d) The secretary and other appropriate individuals, as
18 determined by the commission, shall be ex officio members of
19 the commission.

20 *SEC. 20. Section 78700 of the Food and Agricultural Code is*
21 *amended to read:*

22 78700. (a) The commission shall establish the assessment for
23 the marketing season not later than March 1 of each year or as
24 soon thereafter as is possible. The assessment shall not exceed
25 twenty cents (\$.20) per 100 pounds, or the equivalent, for
26 tomatoes delivered to handlers by producers. Of the assessment,
27 not more than ten cents (\$.10) per 100 pounds prepared for
28 market, or the equivalent, shall be assessed against producers,
29 and not more than ten cents (\$.10) per 100 pounds shall be
30 assessed against handlers. ~~The handler portion of the assessment~~
31 ~~shall also apply to tomatoes received from outside of the state.~~

32 (b) An assessment greater than the amount provided for in this
33 section may not be charged unless and until a greater fee is
34 approved by a majority of the commission and by eligible
35 producers and handlers pursuant to procedures specified in
36 Section 78691.

37 *SEC. 21. No reimbursement is required by this act pursuant*
38 *to Section 6 of Article XIII B of the California Constitution*
39 *because the only costs that may be incurred by a local agency or*
40 *school district will be incurred because this act creates a new*

1 *crime or infraction, eliminates a crime or infraction, or changes*
2 *the penalty for a crime or infraction, within the meaning of*
3 *Section 17556 of the Government Code, or changes the definition*
4 *of a crime within the meaning of Section 6 of Article XIII B of the*
5 *California Constitution.*

6 ~~SECTION 1. Section 14992 of the Food and Agricultural~~
7 ~~Code is amended to read:~~

8 ~~14992. The label shall contain a legible and plainly printed~~
9 ~~statement which certifies all of the following:~~

10 ~~(a) The net weight or volume of the contents of the lot or~~
11 ~~parcel unless accompanied by a certified certificate of weights~~
12 ~~and measures.~~

13 ~~(b) The product name, brand name, or trademark.~~

14 ~~(c) The name and principal address of the manufacturer or~~
15 ~~person that is responsible for placing the commodity on the~~
16 ~~market.~~

17 ~~(d) The guaranteed analysis stated in such terms as the director~~
18 ~~specifies by regulation.~~

19 ~~(e) The recognized official name, as specified by the director,~~
20 ~~of each ingredient. The director may by regulation permit the use~~
21 ~~of a collective term for a group of ingredients which performs a~~
22 ~~similar function. The director may exempt a commercial feed, or~~
23 ~~any combination of commercial feeds from labeling requirements~~
24 ~~if he finds the listing is not necessary to comply with the intent of~~
25 ~~this chapter.~~

26 ~~(f) Adequate directions, warnings and caution statements that~~
27 ~~may be necessary for the safe use of any feed.~~